

- Preliminary “Top Ten” List -

[Proposed Priority Focus Areas for the Deschutes Mitigation Program]

TOPIC / PROBLEM STATEMENT	PROPOSED OWRD ACTIONS
PROGRAM EXTENSION. The January 2029 statutory program sunset puts at risk the one in three program users who rely on temporary credits and the many municipal and quasi-municipal rights holders still building out their permits. A program extension is needed to protect existing rights holders and allow continued program implementation and improvement.	- Pursue a statutory change in 2027 to extend the program until 2039 (10 years) via LC 379 - Continue to implement and improve the program, including undertaking the actions described below prior to 2039
TRIBAL WATER RIGHTS. Program activity may not injure existing water rights, including the Confederated Tribes of Warm Springs’ (the Tribe’s) reserved water right defined in the settlement agreement. This should be explicit in law, with tools developed and applied to ensure no injury.	- Pursue statutory language in LC 379 to clarify the protection of these tribal rights - Continue work with the Tribe and the United States to establish an agreed injury test to protect these rights
SEASONAL IMPACTS. Pumping impacts occur year-round, while mitigation projects primarily contribute flows during the irrigation season. This results in seasonal program impacts, which are masked by annual accounting.	- Continue assessment of seasonal impacts at all program analysis locations - Evaluate site-specific findings with partners to identify areas of concern and decide next steps
WHYCHUS CREEK + CROOKED RIVER. OWRD’s standard program impact assessment approach cannot be applied to the Whychus Creek and Crooked River systems due to baseline data limitations.	- Continue work with the Tribe to develop an alternative analysis for program impacts to those systems - Consider statutory inclusion of this analysis in LC 379
MITIGATION WATER RELIABILITY. Mitigation water must be sufficiently reliable to generate “wet water” instream to offset groundwater use. The program should account for changes in water availability related to climate and other factors.	- Analyze trends in the availability of permanent mitigation water over time to inform decisions on eligibility of future mitigation projects
PROTECTED FLOW VERIFICATION. Instream flows are confirmed through OWRD’s regular monitoring of existing stream gages, periodic auditing and bi-weekly reporting. A new gage at Lower Bridge would further support the verification of protected flows.	- Continue to work with partners on a funding strategy for the installation and ongoing operation of a new gage - Use new gage to support verification of protected flows
CONSUMPTIVE USE FACTORS. Consumptive use (CU) is the basis for the program’s system of debits and credits. The CU factors applied in the program should reflect current conditions and the best available science.	- Evaluate CU factors as part of an ongoing update to OWRD’s water availability methodology
TEMPORARY CREDIT UNCERTAINTY. Instream leasing is an unstable source of mitigation. Innovative approaches are needed to manage uncertainty and reduce risks to program users.	- Work with the Deschutes River Conservancy mitigation bank to evaluate opportunities to manage temporary credit uncertainty - Evaluate opportunities to promote permanent mitigation - Improve awareness of credit uncertainty for applicants
7J PERMITS. Groundwater permits issued in the basin from 1995-1998 include a condition making them subject to possible regulation barring mitigation. These “7j permits” should be prioritized for review and action.	- Prioritize review of 7j permits that are not yet certificated - Take case-specific action, including cancellation of undeveloped portions of permits as appropriate
IMPACTS TO SPRINGS AND WATER QUALITY. Groundwater use in the Deschutes Basin reduces spring discharge and associated cold water inputs to streams. Understanding the extent of Mitigation Program impacts on springs requires further exploration.	- OWRD is still evaluating pathway forward